

REMARKS

Claims 1-52 are all the claims pending in the application. Claims 1-31 and 51 are being amended. The Applicant notes that claim 51 is being amended to correct a typographical error.

I. Claim Rejections: 35 USC §101

The Examiner rejected claims 1-31 under 35 USC §101 as allegedly failing to establish a statutory category of invention.

The Applicant herein amends claims 1-21 to more clearly indicate that the automatic client messaging launcher is *embodied on a communication device*, which the Applicant submits will bring the claims within the statutory category of a system that is carried out on a computer-based communication device, as described in paragraph [0035] of the Specification. Support for the amendment that the automatic messaging client launcher is implemented on the communication device is found in paragraph [0034] of the Specification.

The Applicant further amends claims 22-31 to specify that the automatic messaging client launcher system is *executable by a computer with a memory*, as supported by paragraph [0023] of the Specification. The Applicant submits that the above amendments should overcome the rejection under 35 USC §101, and respectfully requests that the rejection of claims 1-31 be withdrawn.

II. Claim Rejections: 35 USC §103

The Examiner rejected claims 1-52 under 35 USC §103(a) as allegedly being anticipated by US Patent Publication No. 2004/0005042A1, to Dhara (hereinafter “Dhara”) in view of US Patent No. 6,970,553, to Gao (hereinafter “Gao”).

Claim 1

The Applicant herein amends claim 1 to clarify that the automatic messaging client launcher system is *embodied on the originating communication device*, as stated throughout the Specification and specifically in paragraph [0034] and Figure 1. Neither Dhara nor Gao, taken alone or in combination, disclose an automatic messaging client launcher that is embodied on a communication device such as, in one embodiment, a cellular telephone, as described in paragraphs [0034] and [0035] of the Specification.

Dhara is limited to a system where the interactive call notification takes place within the IP telephony system 108, as illustrated in Figure 1, but not in the calling party cellular telephony device 106. Paragraphs [0023] and [0024] of Dhara, as well as Figure 2, further illustrates how the system of call notification does not take place at the calling party cellular telephony device.

Gao also fails to disclose where an automatic messaging client launcher is implemented on a phone 101 or computer 111 of the calling party 100, as illustrated in Figure 1 of Gao. Instead, as described in col. 4, lines 66 – col. 5, lines 28, the chat client is implemented at the switching system 102 and call processing system 107.

For at least the reasons stated above, the Applicant submits that neither Gao nor Dhara, taken alone or in combination, disclose an automatic messaging client launcher system that is embodied on the originating communication device, as recited in claim 1. Gao and Dhara further fail to teach, suggest or provide any motivation for an automatic messaging client launcher system that is embodied on the originating communication device, as required for a rejection under 35 USC §103. Furthermore, as claims 2-21 depend from claim 1, the Applicant submits that claims 2-21 are allowable at least based on their dependency to claim 1.

The Applicant respectfully requests that the rejection of claims 1-21 be withdrawn.

Claim 22

The Applicant further submits that neither Dhara nor Gao teach the invention embodied in claim 22, as Gao fails to teach the limitations lacking in Dhara, of “a message sender...for sending to said originating device a message *comprising an address of said destination device*,” as recited in claim 1. The Examiner, in discussing claim 22, refers only to the section of the Office Action discussing claim 1, which does not recite the claim element of a message sender that sends a message to the originating device comprising an address of said destination device. Instead, claim 1 discusses a messaging initiator that launches a messaging client when the destination device is unavailable. Claim 1 does not recite the sending of a message to the originating device, as recited in claim 22; nor does claim 1 specify that the message sent to the originating device comprises an address of said destination device, as recited in claim 22.

The Applicant refers the Examiner to paragraph [0046] of the Specification, which describes how the “message sender 220 sends a message containing destination device

addressing information to the originating device,” which “...is used for sending a reply to the currently unavailable destination device.” *Specification*, paragraph [0046]. Neither Dhara nor Gao disclose such a message sender. Dhara discusses sending a message to the calling party cellular telephony device 102 only “to indicate the called party’s busy status, to give an alternative time to call, or to send another message.” *Dhara*, paragraph [0023]. However, Dhara does not disclose sending a message which comprises the address information of the destination device, as Dhara does not disclose where the calling party telephony device may then send a reply to the currently unavailable destination device. Dhara further expands upon its system at paragraph [0033], where Dhara discusses how “the calling party dialog sets up a communication path to the calling party telephone device in order to obtain information regarding disposition of the call.” Dhara continues, “the calling party dialog sends the request for information to the calling party telephone device 218.” However, Dhara fails to disclose where the request for information contains a message comprising an address of said destination device. In fact, Dhara fails to discuss any type of address information being sent to the originating device, let alone providing any suggestion or motivation for sending such information.

While the invention embodied in claim 22 is designed to instantly provide a calling party with alternative options for sending a pre-addressed instant message to an unavailable called party, Dhara does not anticipate or provide for this situation, and therefore does not teach the embodiment of the invention described in claim 22. Furthermore, as Gao is limited to a chat client that provides for instant messaging, Gao has no need for sending a message with

destination device address information, as a chat client lacks the traditional message format with a destination address field.

For at least the reasons stated above, the Applicant submits that Dhara and Gao, taken alone or in combination, fail to teach the elements of claim 22. Furthermore, the Applicant submits that claims 23-31 are also allowable over Dhara and Gao, at least based on their dependency to claim 22.

As the Examiner rejected claims 22-52 for the same reasons stated for claims 1-21, the Applicant submits that remaining unamended claims 32-52 are allowable for at least the same reasons stated above with regard to claims 1-31.

III. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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Date: August 7, 2008